

1 TO THE HONORABLE SENATE:

2 The Committee on Agriculture to which was referred Senate Bill No. 255
3 entitled “An act relating to miscellaneous agricultural subjects” respectfully
4 reports that it has considered the same and recommends that the bill be
5 amended by striking out all after the enacting clause and inserting in lieu
6 thereof the following:

7 * * * Agricultural Water Quality Complaints * * *

8 Sec. 1. 6 V.S.A. § 11a is added to read:

9 § 11a. COMPLAINTS; PROCEDURE

10 (a) Any person may file with the Secretary of Agriculture, Food and
11 Markets a complaint alleging a violation of this title or any other law
12 administered by the Agency of Agriculture, Food and Markets. A person may
13 file a complaint in writing, electronically, or in person with staff of the Agency
14 of Agriculture, Food and Markets. The complaint shall include a summary of
15 the nature of the alleged violation and the name, address, and contact
16 information of the person filing the complaint for purposes of communicating
17 the result of the investigation of the complaint. A complaint submitted to the
18 Secretary of Agriculture, Food and Markets shall be available for public
19 inspection and copying under the Public Records Act, provided that the
20 Secretary shall not be required to identify or provide the contact information
21 for the source of the complaint.

1 (b) Except as provided for under section 4991a of this title, the Secretary of
2 Agriculture, Food and Markets is not required to investigate anonymous
3 complaints unless the complaint is accompanied by specific, credible
4 information the Secretary reasonably believes can be corroborated and that
5 would justify investigation on the Secretary’s own motion.

6 Sec. 2. 6 V.S.A. § 4991a is added to read:

7 § 4991a. COMPLAINTS; PROCEDURE

8 (a) Any person may file with the Secretary of Agriculture, Food and
9 Markets a complaint alleging a violation of this chapter, rules adopted under
10 this chapter, or a permit or certification issued under this chapter. A person
11 may file a complaint in writing, electronically, or in person with staff of the
12 Agency of Agriculture, Food and Markets. The complaint shall include a
13 summary of the nature of the alleged violation and the name, address, and
14 contact information of the person filing the complaint for purposes of
15 communicating the result of the investigation of the complaint. A complaint
16 submitted to the Secretary of Agriculture, Food and Markets shall be available
17 for public inspection and copying under the Public Records Act, provided that
18 the Secretary shall not be required to identify or provide the contact
19 information for the source of the complaint.

20 (b) The Secretary of Agriculture, Food and Markets is not required to
21 initiate an investigation of an anonymous complaint of a violation of this

1 chapter unless the complaint alleges one or more of the following violations or
2 is accompanied by specific, credible information that the Secretary reasonably
3 believes can be corroborated and that would justify investigation on the
4 Secretary’s own motion:

5 (1) a violation of a concentrated animal feeding operation permit issued
6 by the Agency of Natural Resources under 10 V.S.A. chapter 47;

7 (2) a point source discharge of agricultural waste to a water of the
8 State; or

9 (3) a discharge of waste other than agricultural waste to a water of
10 the State.

11 (c) Investigation of a complaint alleging one or more of the violations listed
12 in subdivisions (b)(1)-(3) of this section shall be investigated and enforced
13 according to the terms of the Memorandum of Understanding Between the
14 Agency of Agriculture, Food and Markets and the Agency of Natural
15 Resources Regarding Implementation and Enforcement of Agricultural Water
16 Quality Programs.

17 (d) As used in this section:

18 (1) “Discharge” shall have the same meaning as set forth in 10 V.S.A.
19 § 1251.

20 (2) “Point source” shall have the same meaning as set forth in 33 U.S.C.
21 § 1362.

1 entity cooperating with the Agency is necessary to assist the Secretary in
2 responding to the disease or pest threat;

3 (3) to provide information related to State or federal assistance to the
4 owner or operator of a farm for development of the nutrient management plan
5 or for practices required under the nutrient management plan;

6 (4) to provide or publish statistical or aggregated information provided
7 that the Secretary shall not disclose the identity of the individual persons,
8 households, or businesses from whom or where the information was obtained;

9 (5) when the owner or operator of the farm consents; or

10 (6) to disclose any information related to an enforcement action taken
11 against the owner or operator of the farm that submitted the nutrient
12 management plan.

13 (c) Waiver of privilege or protection. The disclosure of information by the
14 Secretary under subsection (b) of this section shall not constitute a waiver by
15 the owner or operator of the farm of any applicable privilege or protection
16 under State or federal law, including trade secret protection.

17 Sec. 4. SCHEDULE; SUBMISSION OF NUTRIENT MANAGEMENT

18 PLAN

19 An owner or operator of a farm subject to the nutrient management plan
20 reporting requirements of 6 V.S.A. § 4817 shall initiate submission of the
21 nutrient management plan according to the following schedule:

1 waters of the State from subsurface tile drainage. Upon adoption of
2 requirements for subsurface tile drainage, the Secretary may require an existing
3 subsurface tile drain to comply with the requirements of the RAPs for
4 subsurface tile drainage upon a determination that compliance is necessary to
5 reduce adverse impacts to water quality from the subsurface tile drain.

6 * * * Wetlands * * *

7 Sec. 7. AGENCY OF NATURAL RESOURCES RECOMMENDATIONS
8 ON WETLANDS PROGRAM ENHANCEMENTS

9 On or before November 15, 2018, the Secretary of Natural Resources shall
10 submit to the House Committees on Natural Resources, Fish, and Wildlife and
11 on Agriculture and Forestry and the Senate Committees on Natural Resources
12 and Energy and on Agriculture recommendations on how to enhance the
13 wetlands program at the Agency of Natural Resources. The recommendations
14 shall be designed to improve the clarity, predictability, and objectivity of the
15 Agency of Natural Resources' wetlands program and the capacity of the
16 program to protect, enhance, and restore wetlands in the State. At a minimum,
17 the recommendations shall include:

18 (1) modifications to the jurisdiction of the program to ensure notice is
19 provided to the public as to what is a wetlands and when a permit is required;

20 (2) modifications to the permitting process to ensure timeliness and
21 predictability in the processing of wetlands permits; and

1 (2) The many agricultural and environmental beneficial uses of hemp
2 include: livestock feed and bedding, stream buffering, erosion control, water
3 and soil purification, and weed control.

4 (3) The hemp plant, an annual herbaceous plant with a long slender stem
5 ranging in height from four to 15 feet and a stem diameter of one-quarter to
6 three-quarters of an inch is morphologically distinctive and readily identifiable
7 as an agricultural crop grown for the cultivation and harvesting of its fiber
8 and seed.

9 (4) ~~Hemp~~ Industrial hemp cultivation will enable the State of Vermont
10 to accelerate economic growth and job creation, promote environmental
11 stewardship, and expand export market opportunities.

12 (5) The federal Agricultural Act of 2014, Public Law No. 113-79
13 authorized the growing, cultivation, and marketing of industrial hemp,
14 notwithstanding restrictions under the federal Controlled Substances Act, if
15 certain criteria are satisfied.

16 (b) Purpose. The intent of this chapter is to establish policy and procedures
17 for growing industrial hemp in Vermont that comply with federal law so that
18 farmers and other businesses in the Vermont agricultural industry can take
19 advantage of this market opportunity.

20 § 562. DEFINITIONS

21 As used in this chapter:

1 (1) [Repealed.]

2 (2) “Hemp products” means all products made from industrial hemp,
3 including cloth, cordage, fiber, food, fuel, paint, paper, construction materials,
4 plastics, seed, seed meal, seed oil, and certified seed for cultivation.

5 (3) “Hemp” or “industrial hemp” means the plant Cannabis sativa L. and
6 any part of the plant, whether growing or not, with a delta-9
7 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry
8 weight basis.

9 (4) “Secretary” means the Secretary of Agriculture, Food and Markets.

10 § 563. INDUSTRIAL HEMP; AN AGRICULTURAL PRODUCT

11 ~~Hemp~~ Industrial hemp is an agricultural product ~~which~~ that may be grown
12 as a crop; produced, possessed, marketed, and commercially traded in Vermont
13 pursuant to the provisions of this chapter. The cultivation of industrial hemp
14 shall be subject to and comply with ~~the requirements of~~ the required
15 agricultural practices adopted under section 4810 of this title.

16 § 564. REGISTRATION; ADMINISTRATION; PILOT PROJECT

17 (a) The Secretary shall establish a pilot program to research the growth,
18 cultivation, and marketing of industrial hemp. Under the pilot program, the
19 Secretary shall register persons who will participate in the pilot program
20 through growing or cultivating industrial hemp. The Secretary shall certify the
21 site where industrial hemp will be cultivated by each person registered under

1 this chapter. A person who intends to participate in the pilot program and
2 grow industrial hemp shall register with the Secretary and submit on a form
3 provided by the Secretary the following:

4 (1) the name and address of the person;

5 (2) a statement that the seeds obtained for planting are of a type and
6 variety that do not exceed the maximum concentration of tetrahydrocannabinol
7 set forth in subdivision 562(3) of this title; and

8 (3) the location and acreage of all parcels sown and other field reference
9 information as may be required by the Secretary.

10 (b) The form provided by the Secretary pursuant to subsection (a) of this
11 section shall include a notice statement that, ~~until current federal law is~~
12 ~~amended to provide otherwise:~~

13 (1) cultivation and possession of industrial hemp in Vermont is a
14 violation of the federal Controlled Substances Act unless the industrial hemp is
15 grown, cultivated, or marketed under a pilot program authorized by section
16 7606 of the federal Agricultural Act of 2014, Pub. L. No. 113-79; and

17 (2) federal prosecution for growing industrial hemp in violation of
18 federal law may include criminal penalties, forfeiture of property, and loss of
19 access to federal agricultural benefits, including agricultural loans,
20 conservation programs, and insurance programs.

1 (c) A person registered with the Secretary pursuant to this section shall
2 allow industrial hemp crops, throughout the sowing, growing season, harvest,
3 storage, and processing, to be inspected and tested by and at the discretion of
4 the Secretary or ~~his or her~~ designee. The Secretary shall retain tests and
5 inspection information collected under this section for the purposes of research
6 of the growth and cultivation of industrial hemp.

7 (d) The Secretary ~~may~~ shall assess an annual registration fee of ~~\$25.00~~
8 \$30.00 for the performance of his or her duties under this chapter.

9 § 566. RULEMAKING AUTHORITY

10 (a) The Secretary may adopt rules to provide for the implementation of this
11 chapter and the pilot project authorized under this chapter, which may include
12 rules to require industrial hemp to be tested during growth for
13 tetrahydrocannabinol levels and to require inspection and supervision of
14 industrial hemp during the sowing, growing season, harvest, storage, and
15 processing. The Secretary shall not adopt under this or any other section a rule
16 that would prohibit a person to grow industrial hemp based on the legal status
17 of industrial hemp under federal law.

18 (b) The Secretary shall adopt rules establishing how the Agency of
19 Agriculture, Food and Markets will conduct research within the pilot program
20 for industrial hemp.

1 Sec. 10. TRANSITION; IMPLEMENTATION

2 All persons registered prior to July 1, 2018 with the Secretary of
3 Agriculture, Food and Markets under 6 V.S.A. chapter 34 to grow or cultivate
4 industrial hemp shall be deemed to be registered with the Secretary of
5 Agriculture, Food and Markets as participants in the industrial hemp pilot
6 project established by this act under 6 V.S.A. § 564, and those previously
7 registered persons shall not be required to reregister with the Secretary of
8 Agriculture, Food and Markets.

9 Sec. 11. 6 V.S.A. § 567 is added to read:

10 § 567. TEST RESULTS; ENFORCEMENT

11 (a) If the Secretary or a dispensary registered under 18 V.S.A. chapter 86
12 tests an industrial hemp crop and the industrial hemp has a delta-9
13 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight
14 basis, the person registered with the Secretary as growing the industrial hemp
15 crop shall:

16 (1) enter into an agreement with a dispensary registered under 18 V.S.A.
17 chapter 86 for the separation of the delta-9 tetrahydrocannabinol from the
18 industrial hemp crop, return of the industrial hemp crop to the person
19 registered with the Secretary, and retention of the separated delta-9
20 tetrahydrocannabinol by the dispensary.

1 Agriculture, Food and Markets under 6 V.S.A. chapter 34 to grow or cultivate
2 industrial hemp.

3 * * *

4 Sec. 13. 18 V.S.A. § 4474n is added to read:

5 § 4474n. TESTING BY THE AGENCY OF AGRICULTURE, FOOD AND
6 MARKETS

7 The Agency of Agriculture, Food and Markets shall establish a cannabis
8 quality control program for the following purposes:

9 (1) to develop potency and contaminant testing protocols for industrial
10 hemp, hemp-infused products, marijuana, and marijuana-infused products;

11 (2) to verify cannabinoid label guarantees of industrial hemp, hemp-
12 infused products, marijuana, and marijuana-infused products;

13 (3) to test for pesticides, solvents, heavy metals, mycotoxins, and
14 bacterial and fungal contaminants in industrial hemp, hemp-infused products,
15 marijuana, and marijuana-infused products; and

16 (4) to certify testing laboratories that can offer the services in
17 subdivisions (2) and (3) of this section.

